

DEPARTMENT OF INSURANCE  
By                     

Docket No. 95-097-F

## ORDER OF CEASE AND DESIST

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## FINDINGS OF FACT

4. Respondent, Walter J. Venerable, Jr. (Venerable), is an individual who is and at all material times was a shareholder, director and officer of DHC.

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1           5.    In November and December 1993, the Arizona  
2 Department of Insurance (Department) and the Arizona Attorney  
3 General's Office advised Krum that his proposed dental office  
4 concept referred to in descriptive literature as "Dental Health  
5 Club" appeared to constitute a Prepaid Dental Plan Organization  
6 within the meaning of A.R.S. § 20-1001, et seq., and that it  
7 is unlawful to transact business in this state as such without a  
8 certificate of authority therefor.

9           6.    In or around October 1994, Krum and Venerable  
10 established DHC.

11           7.    Since October 1994, Respondents have operated DHC  
12 in this state as a Prepaid Dental Plan Organization within the  
13 meaning of A.R.S. § 20-1001, et seq., without obtaining a  
14 certificate of authority therefor.

15           8.    Since October 1994, Respondents' activities as a  
16 Prepaid Dental Plan Organization have included solicitation of  
17 members directly and through agents, receipt of membership fees,  
18 entering into contractual arrangements with members to provide  
19 prepaid dental services, and provision of prepaid dental  
20 services.

21           9.    In addition to failing to obtain a certificate of  
22 authority, Respondents have failed to comply with numerous pro-  
23 visions of A.R.S. § 20-1001, et seq., including without  
24 limitation, provisions pertaining to: approval of advertising  
25 material, approval of the evidence of coverage for members,  
26 deposit requirements for the benefit and protection of members,  
27 and the financial practices of a Prepaid Dental Plan Organiza-  
28 tion.

1           10. DHC is in a hazardous financial condition such  
2 that it cannot be expected to continue to meet its obligations  
3 to members or prospective members.

4           11. DHC has made, published, disseminated, circulated  
5 and placed before the public, advertisements, sales materials  
6 and statements asserting that DHC is not a form of insurance,  
7 which is untrue, deceptive and misleading.

8                           CONCLUSIONS OF LAW

9           1. The Director has jurisdiction over this matter.

10          2. The conduct of Respondents constitutes the unau-  
11 thorized transaction of insurance in this state, within the  
12 meaning of A.R.S. §§ 20-103, 20-106, 20-107 and 20-401.01.

13          3. The conduct of Respondents constitutes the unau-  
14 thorized transaction of business in this state as a Prepaid  
15 Dental Plan Organization, within the meaning of A.R.S. §  
16 20-1001, et seq.

17          4. The conduct of Respondents constitutes misrepresen-  
18 tation and deceptive advertising of insurance, within the mean-  
19 ing of A.R.S. §§ 20-443 and 20-444.

20          5. The Director may order Respondents to cease and  
21 desist, pursuant to A.R.S. §§ 20-401.02 and 20-456.

22                           ORDER

23           IT IS THEREFORE ORDERED:

24           1. Respondents and their agents and employees shall  
25 immediately cease and desist from the transaction of insurance  
26 business in this state for which they are not duly and expressly  
27 authorized by the Department.

28           . . . . .

1           2. Respondents and their agents and employees shall  
2 immediately cease and desist from the transaction of business in  
3 this state as a Prepaid Dental Plan Organization without being  
4 duly and expressly authorized therefor in accordance with A.R.S.  
5 § 20-1001, et seq.

6           3. Respondents and their agents and employees shall  
7 immediately cease and desist from any solicitation of any new  
8 members or any new terms of membership, from any acceptance of  
9 membership fees relative to any new members or any new terms of  
10 membership, from any acceptance of applications or enrollment  
11 agreements from any new members or relative to any new terms of  
12 membership, and from entering into any contractual arrangements  
13 to provide directly or arrange for prepaid dental services  
14 without being duly and expressly authorized therefor in  
15 accordance with A.R.S. § 20-1001, et seq.

16           4. Respondents and their agents and employees shall  
17 comply with A.R.S. § 20-402.

18           5. Respondent, Dental Health Clubs, Inc. shall remit  
19 to the Department, for remission to the State Treasurer for  
20 deposit in the State General Fund, any and all taxes due  
21 pursuant to A.R.S. § 20-1010 together with any and all penalties  
22 and interest due pursuant to A.R.S. §§ 20-1010 and 20-225 up to  
23 the date of remission to the Department.

24           6. This Order shall become effective immediately and  
25 shall remain in full force and effect until otherwise stayed,  
26 modified, vacated or set aside.

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3 NOTICE OF OPPORTUNITY FOR HEARING

4 Pursuant to Titles 20 and 41 of the Arizona Revised  
5 Statutes, Respondent is hereby notified that it may request a  
6 hearing pursuant to A.R.S. § 20-161 to contest the above order  
7 to cease and desist. Such a request must be in writing and  
8 received at the following address:

9 Arizona Department of Insurance  
10 Administrative Law Division  
11 Suite 210  
12 2910 North 44th Street  
13 Phoenix, Arizona 85018

14 Upon receipt of a rightful written request for hearing, the  
15 Director will issue a notice setting the time and place of the  
16 hearing.

17 DATED this 5th day of May, 1995.

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19   
20 CHRIS HERSTAM  
21 Director of Insurance

22 COPY of the foregoing mailed/delivered this  
23 5th day of May, 1995, to:

24 Sydney Davis  
25 Gerrie L. Switzer  
26 Assistant Attorneys General  
27 Consumer Protection and Antitrust Section  
28 1275 West Washington  
Phoenix, Arizona 85007

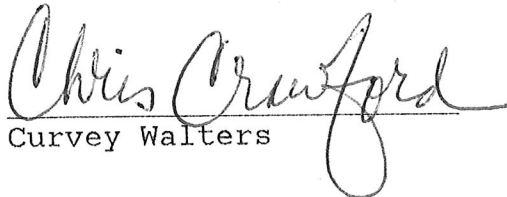
Gay Ann Williams, Deputy Director  
Charles R. Cohen, Executive Assistant Director  
Erin Haney-Klug, Executive Assistant  
Gary A. Torticill, Assistant Director  
A. Lee Books, Senior Analyst  
Catherine O'Neil, Assistant Director  
Deloris Williamson, Assistant Director  
Mary Butterfield, Manager  
Department of Insurance  
2910 North 44th Street, Suite 210  
Phoenix, Arizona 85018

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Nelson C. Krum, Jr., DDS  
President  
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1514 West Thomas Road  
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Curvey Walters